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Federal Communications Commission
Office of Secretary

February 22, 2006

BY HAND

Marlene H. Dortch, Secretary
Federal Communications Commission
c/o Natek, Inc., Inc.
236 Massachusetts Avenue, N.E., Suite 110
Washington, DC 20002

Attn: Wireline Competition Bureau

Re: *Telefónica Larga Distancia de Puerto Rico, Inc.*,
Petition for Declaratory Ruling, WC Docket No. 06-1

Dear Ms. Dortch:

Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD") encloses herewith for filing in this proceeding a copy of its "Motion Regarding Puerto Rico Telephone Company Inc.'s Withdrawal of the Single Zone Plan and PRTC's Motion to Dismiss," which TLD filed with the Telecommunications Regulatory Board of Puerto Rico on February 17, 2006. TLD is submitting this document in order to keep the record in this docket and the Commission up to date with respect to the proceedings before the Puerto Rico Board.

Respectfully submitted,

Brett A. Snyder
Attorney for Telefónica Larga Distancia de Puerto Rico, Inc.

Enclosure

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List A B C D E

Before the
TELECOMMUNICATIONS REGULATORY BOARD OF PUERTO RICO

TELEFONICA LARGA DISTANCIA DE PUERTO RICO, INC., WORLDNET TELECOMMUNICATIONS, INC., SPRINT COMMUNICATIONS COMPANY, LP, and AT&T OF PUERTO RICO, INC.	)	Case Nos.:
	)	JRT-2005-Q-0121
	)	JRT-2005-Q-0128
Plaintiffs,	)	JRT-2003-Q-0297
v.	)	JRT-2004-Q-0068
	)	
PUERTO RICO TELEPHONE COMPANY, INC.,	)	
	)	**Attachment OCCO**
Defendant.	)	

MOTION REGARDING PUERTO RICO TELEPHONE COMPANY INC.'S WITHDRAWAL OF THE PROPOSED SINGLE ZONE PLAN AND PRTC's MOTION TO DISMISS

Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"), by its undersigned attorneys, very respectfully states and prays as follows:

I. INTRODUCTION

On February 3, 2006 Puerto Rico Telephone Company Inc., ("PRTC") filed a Motion to Dismiss stating that it had withdrawn its proposed Single Zone Tariff ("Single Zone Plan") and such withdrawal had rendered the captioned cases moot. TLD respectfully disagrees and submits that, given the pendency of the case concerning the Single Zone Plan for almost 10 months[1] and the significance of the issues raised and discussed, any dismissal of the captioned

[1] The litigation regarding the Single Zone Plan has lasted for almost 10 months, many of the unresolved issues and controversies discussed in this motion have their true genesis in 2003, with the filing of the E-8 tariff (in

cases prompted by PRTC's withdrawal of the Single Zone Plan must be accompanied by the specific Board actions discussed herein.[2]

As a threshold matter, the captioned cases are not limited to PRTC's ill fated Single Zone Plan. They include still unresolved proceedings dating back to PRTC's earlier reduction of local calling zones in Puerto Rico from 68 to 10. Indeed, the opportunity exists for the Board to obtain all the information it needs from the telecommunications carriers so it can evaluate and respond to the effect thus far of the earlier reduction on competition and consumers. On this basis alone, PRTC's requested dismissal would be improper.

PRTC's proposal of the Single Zone Plan and its resulting elimination of the intra-Island long distance service market in Puerto Rico have brought to light many controversies and have raised very significant issues concerning such matters as: (i) Board authority under Law 213; (ii) whether Law 213 allows a mandatory single zone tariff; (iii) whether the Board has authority under Law 213 to approve the elimination of a telecommunications market recognized and protected under Law 213; (iv) the need for clarity and precision in Board procedures in complaint cases, particularly in hybrid cases involving cost and non-cost matters; (v) the need for the Board to address certain policy matters in a non-adjudicatory context; (vi) the need for the Board to establish a cost methodology to determine whether PRTC's retail rates are cost-based; (vii) the effect of the actions of PRTC, as a dominant carrier in each of the telecommunications markets in Puerto Rico, on competition, market structure and consumers; (viii) and the need for the Board to develop a better understanding as to why, after 10 years,

---

which the local calling zones were reduced from 68 to 10. The lack of resolution of these issues for more than 2 years has created great instability in the telecommunications markets in Puerto Rico.

[2] In this filing, TLD requests that the Board take a variety of actions. As the Board is aware, TLD has pending before the Federal Communications Commission ("FCC") a petition for a declaratory ruling that Board approval of PRTC's Single Zone Plan would be a violation of Section 253(a) of the Communications Act of 1934, as amended (the "Act"). The pleading cycle for that petition has been completed. However, several of the Board's actions sought in the instant filing may bear a relationship to the continued pendency of TLD's petition before the FCC. TLD respectfully requests that the Board rule with respect to those Board actions, identified herein as Sections II.A, II.C.2 and II.C.3, as expeditiously as possible so that TLD can convey the Board's rulings to the FCC.

competition in Puerto Rico's telecommunications markets continues to languish, and to fully explore what obstacles exist.

TLD urges the Board to take advantage of the opportunity afforded by the last 10 months of the developed record, and the information and insights obtained during that time to focus on these very significant issues before closing the door on these proceedings and before having to commence a new proceeding on whatever PRTC may propose next.

These proceedings have been long, intense, and costly for all the parties involved as well as for the Board. After 10 months, PRTC suddenly and without explanation withdrew its Single Zone Proposal. If PRTC's statements to the press are to be believed, it will soon be filing a new proposal. TLD will not speculate as to the reasons why PRTC may have taken this action; the circumstances speak for themselves.

PRTC's withdrawal comes after the parties had studied, analyzed, and extensively briefed the cost and non-cost issues, after comprehensive discovery in the form of interrogatories, production of documents, and depositions, after hearings on the selection of a cost methodology, after the filing of direct and reply testimonies, and after the Board had spent considerable time and resources reviewing and analyzing all of these filings. Given the tremendous expense incurred and the voluminous record established in this case (hundreds of filings by the parties and dozens of rulings by the Board), PRTC's action threatens to deprive the Board of timely opportunities to deliver decisions on many highly significant and extensively briefed issues and to render meaningless the past 10 months unless the Board acts to prevent that from happening. Most particularly, PRTC should not be permitted to game the Board's regulatory authority and processes by now filing another proposal that mimics in design or effect the Single Zone Plan.

The Single Zone Plan proceeding has highlighted numerous issues that the Board must address before it is called upon again by PRTC to consider a tariff proposal that has wide ranging effects on the very structure of the telecommunication markets in Puerto Rico. As discussed below, the Board must proceed to take certain actions in conjunction with the withdrawal of the Single Zone Plan in order to lift the veil of uncertainty that was created by PRTC's marketing and prosecution of its Single Zone Plan, the unfulfilled record of the Board proceeding and the prospect of a new PRTC tariff filing. This uncertainty is enhanced by the fact that PRTC's actions have made clear that the reduction of the local calling zones from 68 to 10 (the E-8 tariff) was a first step towards establishment of a single mandatory calling zone in Puerto Rico. See also Exhibit 1 ("OCCO"). TLD was also involved in the E-8 tariff case, which, as stated above, has not been concluded, leaving unresolved many of the issues which then resurfaced in the Single Zone Plan case. If the Board had resolved these issues during the E-8 case, and before allowing the filing of the Single Zone Plan, many of the expenses of the litigation of the Single Zone Plan case could have been avoided. Likewise, if the Board resolves these issues now, as part of these proceedings, further expenses associated with the participation of interested parties in future tariff filing proceedings will be avoided or at least substantially reduced.

At best, there is tremendous uncertainty in the marketplace regarding PRTC's intentions and it is a testament to PRTC's unparalleled market power in each of the telecommunications markets at issue that the competition is inhibited from reacting or otherwise marketing or designing new products and services simply because PRTC withdrew its Single Zone Plan but has made it clear that its next plan will force the Board to revisit all the significant issues that were focused on in the Single Zone Plan proceeding.

In view of the foregoing, TLD respectfully requests that the Board take the actions discussed in detail below.

II. ISSUES TO BE RESOLVED AS PART OF THE INSTANT CASE

A. TLD's Motion for Summary Judgment

On January 31, 2006, TLD filed a **Motion for Summary Judgment** in which it submits that Law 213 does not allow tariffs with a mandatory single zone. The Motion for Summary Judgment further argues that, pursuant to Law 213, the Board does not have the authority to approve a tariff with a mandatory single zone nor may it be complicit in allowing such a tariff to take effect. In either case, the reason lies in the fact that Law 213 recognizes and protects specific telecommunications markets in Puerto Rico and any action to eliminate one of those markets would be inconsistent with and a violation of Law 213. As a result, the Board should clearly state that, currently, the intra island long distance services market is a separate and distinct market in Puerto Rico. These are issues of law which have been fully briefed and submitted for the Board's consideration. (On January 26, 2006, PRTC filed a Motion to Strike or in the alternative Opposition to Motion for Summary Judgment and today, TLD filed a Reply to PRTC' Opposition to Motion for Summary Judgment). There is no need for a hearing or further filings in order for the Board to consider and resolve the Motion for Summary Judgment. They must be resolved at this time. Resolving these issues now will eliminate further expenses and avoid recurring litigation.

B. Role of Public Policy and Procedures for Hybrid Proceedings

In this proceeding, PRTC has argued that Law 213 does not provide the Board with authority to consider the impact of its proposals on competition or consumers or any other aspect of public policy outside of a determination as to whether the proposed rates are cost-based. Both PRTC and TLD have extensively briefed this issue[3] (refer to memoranda on non-cost based matters) and have submitted proposed parameters to define how public policy should apply to the restructuring of tariffs. The Board should proceed to make its determinations on these issues to avoid repetitive and unnecessary subsequent litigation on these same issues. Moreover, if and when a new PRTC tariff is proposed, the Board and the parties will know the parameters of the Board's consideration of the proposal. In this way, PRTC will make informed decisions regarding public policy in the development and structure of the tariff and proposal.

In addition, TLD requests that the Board issue a Resolution and Order declaring the Board's intention and commitment to open a proceeding within the next thirty (30) days with the purpose of establishing procedures for conducting proceedings such as the Single Zone Plan proceeding which involve issues of public policy and cost-based issues.

C. Rulings Conditioning Future PRTC Tariffs

1. TLD respectfully requests that the Board issue a ruling instructing PRTC that a future tariff proposing a rate rebalancing must be exclusive to local services of PRTC and may not include PRTC's or PRT Larga Distancia's ("PRT LD") intra-island long distance services. It was apparent in the Single Zone Plan proceeding that PRTC tried to combine the rebalancing of its local exchange service rates and the consolidation of those services with PRTC's and

[3] See *Puerto Rico Telephone Company, Inc. Brief On Treatment Of Non-Cost Matters*, filed by PRTC on August 29, 2005; *Telefónica Larga Distancia de Puerto Rico, Inc. Memorandum on Claims Not Involving Cost-Based Rates* filed by TLD on August 29, 2005; *Reply to Puerto Rico Telephone Company Inc.'s Brief on Treatment of Non-Cost Matters*, filed by TLD on September 12, 2005; and *Puerto Rico Telephone Company, Inc.'s Reply Brief on Treatment of Non-Cost Matters*, filed by PRTC on September 12, 2005.

PRT LD's intra-Island long distance services, thus masking any cost shifting and/or cross subsidization. If the intra island long distance service market is to be maintained as a separate market, with separate competitors, the participation of PRTC and PRT LD in that market and the rates they offer the public cannot be influenced by cost and revenue allocation to, from, or among the local exchange service markets.

2. TLD respectfully requests that the Board issue a ruling instructing PRTC to abstain from implementing a tariff or tariffs which combine (or would have the effect of combining) local service (as defined today) with an intra-Island long distance service, without providing a reasonable and attractive alternative for purely local service (as defined today). The Single Zone Plan proceeding has made clear that any tariff that eliminates a local service option that is realistically priced in relation to a local/intra-island service bundle will result in the elimination of the intra-Island long distance service market. Competition is statutorily protected and the use of **mandatory** bundled local/intra island long distance services will not only violate federal and Puerto Rico statutory provisions and objectives but also deprive consumers of their ability to select their preferred intra-Island long distance service providers.

3. TLD respectfully requests that the Board issue a Resolution and Order providing that PRTC may not file nor implement any tariff which would further reduce or have the effect of further reducing the number of local calling zones in Puerto Rico for a period of 18 months, and that then, PRTC will have the burden of proof to establish the lawfulness of any such proposal. Absent this restriction, PRTC can and most likely will return to the Board in the near future with another creative proposal, in either one filing or a series of filings, with equally draconian effects for competition, telecommunications markets and consumers.

4. TLD respectfully requests that the Board issue a Resolution and Order requiring PRTC to state whether its current residential local exchange service, business local exchange

service, intra-Island long distance service and its "Combo" packages are individually cost-based. If they are not cost-based, PRTC should be required to make cost-based tariff filings, for its residential local exchange service, business local exchange service, intra-Island long distance service and its "Combo" packages.

There is no question that the Board has the authority to require PRTC to use cost-based pricing. Chapter 1, Section 2(l) of Law 213 specifically establishes "cost-based pricing" as the public policy of the Commonwealth of Puerto Rico. Chapter 1, Section 7(b) entrusts the Board with responsibility for assuring compliance with Law 213. Chapter 3, Section 4(l) states that "[n]o company shall offer telecommunications services at prices lower than the cost of rendering the same, except for brief periods of time and under those terms and conditions previously approved by the Board." Finally, Chapter 2, Section 7(b)(3) states that the Board "**[s]hall** order the ceasing of activities or acts in violation of any provision of this Act or of the regulations of the Board." It is clear that if PRTC's rates are not cost-based, they are in violation of Law 213 and it is the Board's responsibility to enforce compliance with the cost-based pricing requirements of Law 213.

As to how the Board may exercise that responsibility, there is a misunderstanding perpetuated by PRTC that the Board can only act with respect to the cost-basis of its tariffs if a complaint against such tariffs has been filed with the Board. This view relies on Chapter 3, Section 7(b) which states that [t]he Board shall, at the request of the interested party, and through a complaint thereby, ascertain whether the prices and/or charges established are not based on cost, thus violating the principle of fair and sound competition." However, that section merely mandates the Board to "ascertain whether the prices and/or charges established are not based on cost;" in the event of a complaint. It does not state that is the only time that the Board may determine whether PRTC's rates are cost-based. Indeed, in order to accept the view that the Board's ability to inquire into the cost-basis of PRTC's rates first requires the filing of a complaint in all instances, it is necessary to make a highly unreasonable interpretation of Law 213 – that the Legislature would have purposefully made it discretionary for a private party to determine whether the Board could enforce compliance with Law 213's prohibition against prices that are not cost-based. Such an interpretation by the Board would be tantamount to an abdication of its responsibilities under Law 213 to a private party. TLD submits that this is a wrong headed view of the Board's authority under Law 213, particularly given the facts of this case and the extensive record that has been developed.

Moreover, Chapter 2, Section 7(c) states that [t]he Board shall have the authority to conduct inspections, investigations and audits, if necessary to attain the purposes of this Act." The Board has more than sufficient authority to investigate or even audit the cost basis of PRTC's rates without requiring another person or company to trigger the exercise of that authority.

If PRTC's current rates are not cost-based, the Board must require PRTC to file cost-based tariffs.

Furthermore, during this proceeding PRTC has argued that increasing its retail rates would make the residential local calling market more attractive to competitors and therefore, increase competition. TLD, on the other hand, has argued that such increase in the local retail rates will not necessarily make the residential local market attractive to competition. One of the major obstacles to the development of competition in what remains a PRTC monopoly is the inadequacy of the current discount percentage given by PRTC to resellers. TLD requests that, as part of its inquiry into the cost basis of PRTC's retail rates, the Board should also determine whether, given the need to promote competition, the current small differential between PRTC's retail and wholesale prices is justified.

5. TLD respectfully requests that the Board issue a Resolution and Order requiring PRTC to reimburse professional fees, including attorneys fees, expert witness fees and the expenses incurred by the parties and the Board in this proceeding. Chapter 2, Section 7(b)(4) states that the Board has the power to "[i]mpose and order the payment of costs, expenses and attorneys fees, as well as the payment of expenses and fees for other professional and consulting services incurred for adjudicative procedures before the Board." Similarly, in the case of reimbursement to the Board, Chapter 2, Section 11(e) states that "[t]he Board can obligate a telecommunications or cable company to reimburse the fees, special expenses and other direct and incidental costs incurred for professional and consultation services in the course of investigations, hearings and other procedures conducted with respect to said companies."

Moreover, Rule 8.14(m) of the Board's General Practice and Procedure Rules provides that the Board may impose sanctions on a party which had to be compelled, by order of the Board, to produce information requested during discovery. This rule provides that such sanctions include, but are not limited to, those provided by Rule 34 of the Puerto Rico Rules of Civil Procedure, 32 P.R. Laws Ann. Ap. III R. 34. Subsection (d) of Rule 34.1 includes the costs and attorneys' fees incurred by the movant of the motion to compel that prompted the Board's order.

In the instant proceeding, given PRTC's continued resistance to producing requested information during discovery, TLD had to file multiple motions to compel, incurring in substantial attorneys' fees. Most of those motions to compel were eventually granted by the Board and, therefore, TLD requests that the Board order PRTC to pay the attorneys' fees related to TLD's motions to compel documents from PRTC.

After extensive briefing by TLD, the Board ordered PRTC to produce, for review by the Special Master, copies of certain un-redacted documents which TLD needed to properly and responsibly present its case. After being required to incur attorneys fees and consultants fees not only to compel production of documents but to attempt to prepare an authorized supplement to its direct testimonies using incomplete documents, PRTC suddenly withdrew its Single Zone Plan, wasting such expenditures and ultimately precluding TLD from gaining access to the information to which it was entitled. Therefore, as part of its more general reimbursement of attorneys' fees discussed above, PRTC must be required to pay for the attorneys' fees incurred by TLD in connection with its motions to compel documents from PRTC.

PRTC knowingly filed a single set of tariff revisions that tried to accomplish a business objective by linking together a series of independent proposals. It triggered the need for the selection, for the first time in the history of PRTC's retail rates, of a cost methodology before even being able to explore the cost basis of the rate levels. PRTC was well aware that by linking a "rate rebalancing" proposal with a mandatory island wide calling zone, it would eliminate not just competition but an entire telecommunications market. It chose to redact documents produced in discovery, make wholesale claims of privilege and ultimately confuse litigation strategy with violations of Board orders. Its discovery tactics caused a delay in the December 6, 2005 hearing on non-cost issues after all parties and witnesses had prepared and traveled to the hearing. Then it continued its misguided discovery tactics and again caused a delay, this time of the hearing on both cost and non-cost issues. By this time, the expenses incurred by the parties were overwhelming. Then PRTC suddenly withdrew its Single Zone Plan tariff and filed a motion to dismiss the cases.

PRTC actually expects to simply walk away unscathed, having gutted the coffers of its competitors who were forced to fight for their very survival, only to restart the process in the near future with a new tariff filing. The Board can and must require PRTC to make the parties whole for their attorneys' fees and other professional costs and expenses incurred in the Single Zone Plan case. The Board cannot allow PRTC to play the regulatory process in this manner, damaging interested parties and the integrity of the Board. Indeed, the Board has expended considerable sums in hosting this debacle only to have PRTC withdraw its filing after 10 months of flailing. The Board's expenditures were funded by regulatory fees paid by all telecommunications carriers and such carriers, including TLD, have a clear interest in assuring that monies contributed for the functioning of the Board are not expended without anything to show for it after 10 months of an intense and complex proceeding. In essence, the Board should not become a laboratory for PRTC to test market variations to its Single Zone Plan that threaten to instantly wipe out whole industry segments.

6. TLD respectfully requests that the Board issue a Resolution and Order requiring PRTC to file for the record of this proceeding the steps it will take in the public media to eliminate the uncertainty in the telecommunications market and consumers created by PRTC's insistence at the Single Zone was inevitable and to indicate when it will take these steps.

7. TLD respectfully requests that the Board issue a Resolution and Order requiring PRTC to provide the Board any and all the information that the Board deems necessary and proper to evaluate the impact of the reduction of local calling zones from 68 to 10 and the potential impact of further reductions on competition and on consumers. Chapter 2, Section 7(b)(2) provides the Board with the authority to "[d]emand any type of information that is needed for the adequate compliance of its powers . / . / . " PRTC should be clear as to the Board's intention and commitment to issue a final decision on the issues that gave rise to the original "68 to 10" (E-8 tariff) case.

D. Ruling Regarding Procedures In The Event Of Complaints Against Future PRTC Or PRT LD Tariffs

1. *TLD respectfully requests that the Board issue a ruling establishing more* specific procedures to be followed in the event of complaints against PRTC or PRT LD tariffs. The Single Zone Plan case teaches that current procedures are not clear and give PRTC a wide berth to abuse regulatory processes by forcing interested parties to expend significant sums of money and time after filing a complaint simply to find out whether the PRTC tariffs are cost-based. TLD urges that, as a general matter, the Board require that PRTC has the burden of proving that its proposed rates are cost-based and that upon the filing of a complaint, PRTC should be immediately required to provide all cost information necessary to establish *prima facie* that the subject rates are cost-based before requiring complainants to engage any further resources. *See* Chapter II, Section 7(b)(2).

Under current procedures, while PRTC would have the burden of establishing a cost basis for its rates upon the filing of a complaint, the reality is that interested parties are discouraged from challenging the rates because of the time, expense and resources that is required just to get enough information before the Board so it can engage in the necessary substantive decision making. The Board must move promptly to set forth clear direction to be followed in the event a PRTC or PRT LD tariff is the subject of a complaint. Almost 10 years after the passage of pro-competition legislation at the federal and Commonwealth level, PRTC, as the monopolist in the residential local exchange service market and dominant carrier in all other markets, should not be allowed to claim that its tariffs contain implicit subsidies, in violation of Law 213, as it has done in this case, while at the same time that such tariffs are cost-based and presumably compliant with Law 213.

E. Ruling/Proceeding Regarding Establishment of a Cost Methodology

1. TLD respectfully requests that the Board commence a proceeding, open to public comment, to determine the appropriate cost methodology to be used by PRTC to

establish a cost-basis for its retail rates. As part of that proceeding, TLD suggests that the Board examine whether the cost methodology adopted for use in determining whether the rates proposed in PRTC's Single Zone Plan were cost-based can be modified for use with rate proposals that do not have a mandatory tie in between local residential, local business and intra island long distance services. Since the Single Zone Plan has been withdrawn, it is unclear whether the Board's selection of a cost methodology in that case has any continued use, particularly in an environment where local residential, local business and intra island long distance are evaluated separately.

If the Board believes that the cost methodology adopted in this proceeding can be made sufficiently generic or flexible to be the cost methodology to be used to evaluate whether any future proposed PRTC rates are cost-based, then it should use that methodology as a starting point. If the Board does not address these issues now, the Board and interested parties run the risk that any proceeding involving PRTC's "imminent" new tariff will again embroil the parties in a struggle over the proper cost methodology. And, notwithstanding the fact that the record in these proceeding is very developed there has been no ruling regarding whether such tariffs were cost based, and if PRTC submits a similar tariff proposal, the parties would have to incur significant unnecessary expenses. There must at least be a Board determination rejecting any PRTC tariff which would involve the same or similar parameters as The Single Zone Plan.

F. Order Regarding Existing Marketplace Obstacles to Competition

1. TLD respectfully requests that the Board issue a Resolution and Order declaring the Board's intention and commitment to open a proceeding within the next thirty (30) days to establish a record to enable it to understand the market obstacles in the development of competition in the local telecommunications services, particularly in the pricing and the availability of resale discounts and network elements, unbundled or bundled, and to identify

and eliminate the obstacles in the development of said competition. *See* Chapter 2, Section 7(b)(2).

The Single Zone Plan proceeding has demonstrated that although it has been 10 years since the Telecommunications Act of 1996 and Law 213, there is very little competition in Puerto Rico's telecommunications markets. Indeed, there is no competition to speak of in the residential local exchange service market, neither through resale where the discounts are too low to permit significant competition nor through the wholesale pricing of network elements which is consistently offered at such high levels as to not permit significant competition.

During this proceeding PRTC has argued that increasing its retail rates would make the residential local calling market more attractive to competitors and therefore, increase competition. TLD, on the other hand, has argued that such increase in the local retail rates will not necessarily make the residential local market attractive to competition. The major obstacles are the (a) inadequacy of the current discount percentage given by PRTC to resellers; (b) inadequacy of PRTC's current wholesale prices for network elements, especially after the recent federal pronouncements regarding which network elements are subject to unbundling requirements; and (c) the operational and marketing costs incurred by resellers and facilities-based competitive carriers in order to attract the attention of PRTC's long captive customer base, offer services in competition with PRTC and gain and retain customers in the local residential market.

In addition to these obstacles, competition has been stifled by PRTC's unwillingness to negotiate interconnection agreements and commercial network element agreements in an expeditious and non-discriminatory manner. The fact that PRTC refused for almost eight (8) months to even provide TLD with a draft of a proposed interconnection agreement (the prior agreement expired in June of 2005) because it was still working on a new model agreement reflects the difficulties faced by PRTC's competitors. Meanwhile, it is TLD's understanding that PRTC has entered into new interconnection agreements with other carriers. Similarly, the fact that PRTC has not been consistent in its willingness to enter into commercial network element agreements with different telecommunications carriers reflects discriminatory behavior among similarly situated competitors. Obviously, competition cannot even get out of the starting gate if the Board does not take a pro active stance to assure that the fundamental agreements necessary for the provision of competitive services can be negotiated and signed without unnecessary tactical delay by PRTC.

If the Board is to fulfill the pro-competition mandate of federal and local telecommunications statutes, it must seek, obtain and act upon information that explains why PRTC retains a monopoly stranglehold in the residential local exchange service market and a dominant position in other markets and, conversely, why competition has not developed.

2. TLD respectfully requests that the Board issue a Resolution and Order declaring the Board's intention and commitment to open a proceeding within the next thirty (30) days to classify PRTC's telecommunications services as "competitive" as defined in Chapter 1, Section 3(v) or "non-competitive" as defined in Chapter 1, Section 3(aa). Without this information and these determinations, the Board is unable to effectively enforce Chapter 3, Section 4(k) which states that "[n]o telecommunications company shall use the income generated by *noncompetitive services* to subsidize the offering or rendering of *competitive services*, nor shall it discriminate in favor of its own competitive service when providing telecommunications services" or Chapter 1, Section 2(m) which requires the Board to enforce the public policy of the Commonwealth of Puerto Rico to "eliminate direct or indirect subsidies *between competitive and noncompetitive services*, as well as prohibit any other subsidy which allows for

unreasonably low prices to be sustained, whose purpose is to reduce competition or undermine a competitor." (Italics added).

G. Additional Requests

1. TLD respectfully requests that the Board keep the record of these proceedings open for as long as necessary to achieve the goals stated in this filing and in any event at least eighteen (18) months in order to make part of these proceedings any effort of PRTC to implement a same or similar tariff as the one proposed in the Single Zone Plan in order to take advantage of the discovery already obtained during the course of the case and allow for a more efficient resolution of any similar future controversy.

2. For the reasons explained in footnote 2, TLD respectfully requests that in order to promptly provide relevant information to the FCC in connection with the pendency of TLD's petition for declaratory ruling that Board approval of PRTC's Single Zone Plan would be a violation of Section 253(a) of the Act, the Board **expeditiously** address the matters identified in Sections II.A, II.C.2 and II.C.3 of this filing.

WHEREFORE, TLD respectfully requests that the Board grant TLD's requests included herein.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on this same date I sent by regular mail a copy of this document to: Roberto García, Puerto Rico Telephone Co., 1515 Ave. Roosevelt, Piso 12, Caparra Heights, San Juan, Puerto Rico 00921; Rafael Escalera Rodríguez, Rafael Alonso Alonso and Ileann M. Cañellas Correa, Reichard & Escalera, MCS Plaza, Suite 1000, #255 Ponce de León Ave., Hato Rey, PR 00918; Joaquín A. Márquez, Joe D. Edge & Mark F. Dever, Drinker Biddle & Reath LLP, 1500 K Street, N.W., Suite 1100, Washington, DC 20005; Douglas Meredith, John Staurulakis, Inc. 547 Oakview Lane, Bountiful, UT 84010; and a copy without exhibits to Lcdo. Arnaldo A. Mignucci Giannoni, Home Mortgage Plaza, Suite 800, 268 Ave. Ponce de León, Hato Rey, P.R. 00918; Lcdo. Miguel Rodríguez Marxuach, Rodríguez Marxuach & Gierbolini, P.S.C, P.O. Box 16636, San Juan, P.R. 00908-6636; Francisco A. Rullan, Weiss, Serota Helfman Pastoriza Cole & Boniske, P.S., 3107 Stirling Road, Suite 300, Fort Lauderdale, FL 33312; Law Offices of Juan P. Rivera Román. P.O. Box 7498, Ponce, PR 00732; James N. Moskowitz, 1919 Pennsylvania Avenue, NW, Suite 600, Washington, D.C. 20006; Christopher W. Savage, Esq., Cole, Raywid & Braverman, L.L.P., 1919 Pennsylvania Ave., N.W., Suite 200, Washington D.C. 20006; and Omar Martínez, Esq., P.O. Box 71514, San Juan, PR 00936.

In San Juan, Puerto Rico, on February 17, 2006.

Telefónica Larga Distancia de Puerto Rico, Inc.

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Telefónica Larga Distancia de Puerto Rico, Inc.

Enrique Siaca Esteves
Col. Num. 15,294
Quiñones Sánchez & Guzmán, P.S.C.
P.O. Box 71405
San Juan, P.R. 00936-8505

EXHIBIT 1
OCCO

CERTIFICATE OF SERVICE

I hereby certify that I have on this 22d day of February 2006 served a copy of the foregoing document on the following persons by first-class mail, unless otherwise noted:

Veronica M. Ahern
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